

Court Issues Opinion in Baker Case

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Federal Judge Oliver Gasch issued a 58-page opinion yesterday in which he explained his decision to uphold the grand jury indictment of Robert G. "Bobby" Baker despite FBI eavesdropping on his activities.

The essence of the Gasch ruling was that the eavesdropping and the nine-count indictment were totally unrelated. Baker's lawyers, Gasch said in his opinion, failed to demonstrate that "any of Baker's recorded conversations has any causal connection with or relationship to the indictment."

Furthermore, the Judge said his own inspection of voluminous FBI recordings made in Washington, Miami and Las Vegas failed to reveal "any relevance to matters contained in the indictment."

If Baker's lawyers still feel that a cause-and-effect relationship can be shown between the eavesdropping and the indictment, they will have an opportunity to establish that relationship after the trial begins on Jan. 9, Gasch said.

The Federal charges against Baker, the former secretary to Democrats in the Senate, are income tax evasion, conspiracy and larceny. They were based to a considerable extent, the Justice Department has said, on testimony of former Baker associates, including Wane Bromley, a one-time lobbyist for the coal industry.

Never a Factor

The FBI's electronic espionage

was never a factor in the indictment, the Department said, and Judge Gasch agreed.

He also rejected the argument of Baker's lawyers that the Federal grand jury that returned the indictment last Jan. 6 had been influenced by prejudicial news accounts of Baker's problems.

The defense, said Gasch, made "absolutely no showing that the extensive publicity... had any adverse effect upon the grand jury... which was sitting to consider this case."

He said the jurors were properly instructed by Government lawyers to ignore publicity about the case. They considered evidence for more than a year, heard 170 witnesses and compiled 10,000 pages of testimony.

One of the objects of Baker's lawyers at pretrial hearings before Judge Gasch last month was to have their client tried separately on each of the nine counts in the indictment.

They indicated that he might want to testify on some of the charges but not on others. If forced to stand trial on all charges at once, they said, Baker could be faced with a situation in which by defending himself against one accusation, he might be compelled to incriminate himself on another.

Motion Overruled

Judge Gasch overruled this

"severance" motion and said in his opinion that it could be renewed at the trial whenever Baker decides whether he wishes to take the stand.

In his brief treatment of the eavesdropping issue — it involved only eight of the 58 pages in the opinion—Judge Gasch blazed no new legal ground.

But his ruling was interpreted in the Administration as vindication of former Attorney General Nicholas deB. Katzenbach who had ordered the Department to admit to the eavesdropping practices of the FBI in certain cases involving Baker.

Katzenbach was accused in some political quarters of giving an out to Baker to avoid political embarrassment to President Johnson, who had been one of Baker's sponsors in the Senate.

Katzenbach, who is now Under Secretary of State, angrily denied those inferences and insisted that the Baker case would in no way be affected by the eavesdropping admissions.

The Gasch opinion supported Katzenbach's view, although it remains uncertain how the Supreme Court may deal with the case if it ever reaches that tribunal.